

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JS-6

CIVIL MINUTES -- GENERAL

Case No. **CV 17-5645-MWF-MRWx**

Date: **January 5, 2018**

Title: **George Lee -v- Captain Dons Liquor, Inc.**

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PRESENT: HONORABLE MICHAEL W. FITZGERALD, U.S. DISTRICT  
JUDGE

Rita Sanchez  
Courtroom Deputy

None Present  
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF:

ATTORNEYS PRESENT FOR DEFENDANTS:

None Present

None Present

PROCEEDINGS (IN CHAMBERS): ORDER DISMISSING ACTION FOR  
FAILURE TO PROSECUTE

Plaintiff George Lee commenced this action on July 31, 2017. (*See* Complaint (Docket No. 1)). On October 27, 2017, the Court issued an Order to Show Cause by November 3, 2017, why this action should not be dismissed for lack of prosecution. (“OSC” (Docket No. 9)).

On November 13, 2017, after serving Defendant Captain Dons Liquor with the Summons and Complaint, Plaintiff filed a Request for the Clerk to enter default against Defendant. (*See* Docket No. 12). The Clerk entered default against Defendant on November 14, 2017. (*See* Docket No. 13). On November 14, 2017, the Court issued an Order to Show Cause re: Default Judgment, setting a hearing for December 18, 2017. (“OSC” (Docket No. 14)). The OSC stated that the filing of a Motion for Default Judgment would discharge the OSC. (*Id.*). No Motion for Default Judgment has been filed, and neither party has responded to the OSC in any way.

It is well-established that a district court has authority to dismiss a plaintiff’s action due to failure to prosecute and/or to comply with court orders. *See* Fed. R. Civ. P. 41(b); *Link v. Wabash Railroad Co.*, 370 U.S. 626, 629–30 (1962) (noting that district court’s authority to dismiss for lack of prosecution is necessary to prevent undue delays in the disposition of pending cases and avoid congestion in district court calendars); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992)

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(stating that district court may dismiss action for failure to comply with any order of the court).

Before ordering dismissal, the Court must consider five factors: (1) the public's interest in expeditious resolution of litigation; (2) the Court's need to manage its docket; (3) the risk of prejudice to Defendant; (4) the public policy favoring the disposition of cases on their merits; and (5) the availability of less drastic sanctions. *See In re Eisen*, 31 F.3d 1447, 1451 (9th Cir. 1994) (failure to prosecute); *Ferdik*, 963 F.2d at 1260–61 (failure to comply with court orders).

Taking all of these factors into account, dismissal for lack of prosecution and failure to comply with the Court's OSC is warranted. Accordingly, the action is **DISMISSED with prejudice**.

This Order shall constitute notice of entry of judgment pursuant to Federal Rule of Civil Procedure 58. Pursuant to Local Rule 58-6, the Court **ORDERS** the Clerk to treat this Order, and its entry on the docket, as an entry of judgment.

IT IS SO ORDERED.